

37

PLEASE REPLY TO Danbury

HERBERT L. COHEN
(1928-1983)

March 8, 2005

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Common Council
City of Danbury
155 Deer Hill Avenue
Danbury, CT 06810

RE: Town Hill Commons Associates, LLC
29 Town Hill Avenue, Danbury, Connecticut
Affordable Housing Application Contract with The City of Danbury

Ladies and Gentlemen:

I have enclosed a copy of a proposed "Contract Between Town Hill Commons Associates, LLC and The City of Danbury, Affordable Housing Application" for approval by the Council.

The Application is filed in connection with a Grant of Special Exception by the City Planning Commission under the Housing Incentive Option of 4.B.7 of the City Zoning Regulations. The language of the Contract has been reviewed by the Corporation Counsel's Office.

Please put a request for approval of the Contract on the April Common Council Agenda.

Thank you.

Very truly yours,



Robin A. Kahn

RAK/lr
enc:

cc: Robin Edwards

WHEREAS, on February 2, 2005 the Commission approved the Applicant's application for special exception pursuant to Section 4.B.7 of the Regulations, subject to the following conditions.

NOW THEREFORE, in consideration of the covenants and conditions herein contained, the parties hereto agree as follows:

1. Pursuant to Section 4.B.7 of the Regulations, the Applicant seeks to develop the property described in **Exhibit A** annexed hereto as an eight unit condominium project known as Town Hill Commons Condominiums.

(a) Town Hill Commons Condominiums will have one (1) dwelling unit conveyed by a deed containing covenants incorporating the terms and conditions of this Agreement. A copy of the proposed deed for the affordable housing unit is attached hereto as **Exhibit B**, requiring said unit to be sold or rented at, or below, prices which will preserve the unit as affordable housing, as defined in §8-39a of the Connecticut General Statutes. Said covenants shall run with the land and be enforceable by Danbury until released by Danbury.

(b) The affordable housing unit shall be offered for sale or rent only to persons and families whose income is less than or equal to the area median income for Danbury as determined by the United States Department of Housing and Urban Development (hereinafter "HUD") for at least thirty (30) years from the date of completion of such unit, as evidenced by the issuance of a Certificate of Zoning Compliance.

(c) The sales price of the affordable housing unit shall not exceed \$235,000.00 and the rent for the affordable housing unit shall not exceed \$1,200.00 (the "Initial Sale/Rental Price"), provided that the sales price or rent may be reasonably periodically increased as follows:

The Initial Sale/Rental Price of an affordable housing unit shall be adjusted by the Resale Index ("Index"). The Index shall mean the calculated percentage of change in the Danbury median income for a household of four using the income guidelines as published by HUD. Said measure shall be calculated from the time of the initial sale or rental to the time of the resale or new rental. The Initial Sale/Rental Price shall be multiplied by the Resale Index to establish the maximum resale price or new rent.

(d) The requirements of this Contract shall apply to:

- (i) The resale;
- (ii) The purchase and subsequent leasing;
- (iii) The conversion to the common interest form of ownership and subsequent sale of any such unit of affordable housing during and for the remaining term of such thirty (30) year period.

(e) The affordable housing unit shall be of comparable size and workmanship as all other units in the development.

(f) For the purposes of determining the eligibility of applicants for affordable units, "income" shall mean adjusted gross income as defined for purposes of reporting under Internal Revenue Services Form 1040 for individual Federal annual income tax purposes.

(g) The applicant shall notify the City of Danbury Fair Housing Officer in writing of the date the units will first be offered for sale, thirty days in advance of said date, so that affirmative marketing outreach may be implemented by the City of Danbury.

2. DESIGNATED UNIT

The unit designated as affordable housing unit is **Unit 2**.

3. PROCESS FOR DESIGNATION OF AFFORDABLE UNIT

(a) The affordable housing unit shall be constructed concurrently with other dwelling units included within the special exception application. Zoning permits and Certificates of Zoning Compliance ("Certificates") shall be applied for and issued for the affordable housing unit and other dwelling units on a one-for-one basis to insure that the affordable housing unit is completed under the terms of this Contract. The Zoning Enforcement Officer of the Danbury or his/her authorized agent ("ZEO") shall refuse to issue any zoning permits or Certificates if the applicant is not in compliance with this one-for-one requirement and unless and until the requirement has been met.

(b) For a unit to qualify as an affordable housing unit there shall be submitted to the ZEO, not less than fifteen (15) days prior to the transfer of title, or if a rental unit, not

less than fifteen (15) days prior to the commencement of the lease term of such dwelling unit, the following documents:

(i) a copy of the Contract between the seller and the purchaser or lease between the lessor and the lessee;

(ii) a copy of the proposed deed or lease; and

(iii) an affidavit signed and sworn to by the purchaser or lessee and substantially in the form as **Exhibit C** attached hereto.

(c) The ZEO shall be prohibited from issuing a Certificate with regard to such affordable housing unit until such time as he/she shall have received all of the documentation and information required under subparagraph (b) above and until the ZEO verifies in writing and in recordable form that, based upon the information provided in said documents, the dwelling unit will qualify as an affordable housing unit upon the sale to such purchaser or lease to such lessee.

Within ten (10) days after receipt of said documents, fully completed and legible, the ZEO shall either (i) issue such verification in writing and in recordable form as provided for immediately above (which verification shall be recorded on the Danbury Land Records within five (5) days of its issuance) or (ii) issue a written statement detailing why such verification is not being issued. Failure of the ZEO to issue either of such documents shall be deemed a verification by the ZEO that such dwelling unit, based upon the information provided in said documents, is an affordable housing unit. In such event the Applicant may file an Affidavit on the Danbury Land Records pursuant to Connecticut General Statutes §47-12a attesting to such deemed verification.

Upon such approval or verification of such documentation by the ZEO and compliance with all other applicable provisions of the Zoning Regulations, a Certificate shall be issued and the same shall contain notation as follows:

"Note: The foregoing dwelling unit is subject to all of the terms and provisions relating to an affordable housing unit contained in the City of Danbury Planning Commission's grant of Special Exception regarding Town Hill Commons Condominiums,

recorded in Volume _____ at Page _____ of
the Danbury Land Records."

(d) For so long as there shall remain unsold, not under Contract, or not leased an affordable housing unit, the Applicant shall adopt and carry out an advertising program whereby the existence of such affordable housing unit is made known within the Applicant's area. Such advertising shall be comparable to the other advertising of market rate units and may be separate or combined with such advertising for the market rate units.

(e) Not less than fifteen (15) days prior to any subsequent transfer of title or, if a rental unit, commencement of any new lease or extended lease term or lease of such affordable housing unit, the seller or lessor shall deliver to the Planning and Zoning Department all of the documents and information required to be submitted pursuant to the provisions of Paragraph 3(b) above, which information shall confirm that such transfer shall maintain such dwelling as an affordable housing unit. No closing on the sale or occupancy pursuant to a lease shall take place until the ZEO verifies in writing and in recordable form that, based upon the information provided in said documents, the unit qualifies as an affordable housing unit upon the subsequent transfer of title or lease.

(f) The lease of the affordable housing unit may not be extended or renewed at the end of its term without again going through the same process as set forth in this Paragraph. The ZEO of Danbury periodically may demand from the lessor of any such dwelling unit, the lessee and/or sublessee of any such unit, a statement or statements showing the income(s) of the lessee(s), as the case may be. If the ZEO determines that the tenant of the unit does not qualify within the meaning of §8-39a of the Connecticut General Statutes, as amended, the owner or lessor, as the case may be, shall not renew the lease with the particular lessee at the end of the lease term, unless immediately prior thereto, additional documentation is delivered to the ZEO, which shows that the proposed lessee has income which will qualify the unit as an affordable housing unit.

The provisions of Paragraph 3(c) above relating to the automatic verification by the ZEO for failure to respond within ten (10) days after complete and legible documentation has been presented as required herein shall also apply to this Paragraph.

(g) Standard Lease Provision: Each lease for then Affordable Housing Unit will contain substantially the following provisions:

This unit is being rented as an affordable housing unit as defined in Connecticut General Statutes §8-39a, and is available only to persons or families whose income is at or below the median income for the City of Danbury as determined by the U.S. Department of Housing and Urban Development. Town Hill Commons Condominiums has been approved by the Danbury Planning Commission based, in part, on the condition that a defined percentage of units will be rented as affordable housing units. The owner is required by law to strictly enforce these restrictions.

(h) The time period during which the Affordable Housing Unit has been rented as such shall count toward the thirty (30) year restriction period, and, if previously leased, the affordable housing unit converted to ownership shall be restricted only for the remaining portion of such thirty (30) year period.

(i) The declarant of the common interest ownership community or the common interest ownership association, if it becomes responsible for the management of the property, shall assume responsibility for ensuring that sales and resales of the affordable housing unit occurs in compliance with applicable restrictions and for compliance reporting as set forth in Section 10.E.3. of the Danbury Zoning Regulations.

(j) The authorized agent of ZEO for the purposes hereof, may include the Department of Health and Housing of Danbury.

(k) The Applicant shall record this Contract on the Danbury Land Records no later than ten (10) business days from the date it is approved and executed by both parties hereto.

(l) The provisions of Section 4.B.7 of the Regulations and the provisions of the Commission's Resolution of Approval of the Applicant's Special Exception application are incorporated in this agreement by reference.

STATE OF CONNECTICUT)

) SS: Danbury

, 2005

COUNTY OF FAIRFIELD)

Personally appeared THE CITY OF DANBURY, by MARK BOUGHTON, its Mayor duly authorized, signer and sealer of the foregoing instrument, and acknowledged the same to be his free act and deed, and the free act and deed of THE CITY OF DANBURY, before me.

Robin Edwards

Commissioner of the Superior Court

EXHIBIT A

ALL THAT CERTAIN piece or parcel of land, with the buildings thereon, situated in the City of Danbury, County of Fairfield and State of Connecticut, containing one acre, more or less, and bounded Northerly and Easterly by land of Carmello Rao, et ux (formerly of Janet H. Travis); Southerly by land now or formerly of Alexander Addessi, et ux (formerly of Ira H. Wildman); and Westerly by Town Hill Avenue. Being the same premises described in a certain Quit Claim Deed recorded in Volume 224 at Page 423 of the Danbury Land Records.

TOGETHER WITH Parcel A1 as shown on a certain map entitled, "MAP PREPARED FOR ANTHONY N. SIMONE, DANBURY, CONNECTICUT, SCALE 1" = 20', MAY 3, 1973, REVISED JUNE 12, 1973" which map certified substantially correct by Paul M. Fagan, L.S., and which map is filed on the Danbury Land Records as Map No. 5358.

EXCEPTING THEREFROM Parcel B1 as shown on said map.

EXHIBIT B

STATUTORY WARRANTY DEED

TOWN HILL COMMONS ASSOCIATES, LLC, of 36A Padanaram Road, Suite 2, Danbury, Connecticut 06811,

in consideration of the sum of (\$)
paid,

grants to , whose address is ,

and unto the survivor of them, **WITH WARRANTY COVENANTS**, the premises more particularly described in Schedule A annexed hereto and made a part hereof.

Signed this day of , 2005.

Witnessed by: **TOWN HILL COMMONS ASSOCIATES, LLC,**

_____ By _____

STATE OF CONNECTICUT)
COUNTY OF FAIRFIELD) ss. Danbury

The foregoing instrument was acknowledged, before me, this day of 2005, by , a Manager of **TOWN HILL COMMONS ASSOCIATES, LLC**, as his free act and deed and the free act and deed of said limited liability company.

Commissioner of the Superior Court
Notary Public

Schedule A

All that certain piece or parcel of real property situated in the City of Danbury, County of Fairfield and State of Connecticut, being a portion of **Town Hill Commons Condominiums**, declared by Declaration of Town Hill Commons Condominiums, dated _____, 2005, and recorded in the Danbury Land Records on _____, 2005, in Volume _____ at Page _____, known and designated as **Unit 2**, Town Hill Commons Condominiums; **TOGETHER WITH** a percentage of undivided interest in the common elements as set forth in the above described Declaration of Camelot Court Condominiums.

TOGETHER, ALSO, WITH the benefits, rights, privileges and easements, and **SUBJECT TO** the terms, conditions, agreements, covenants, restrictions, rights, reservations, easements, rules and regulations, contained in the Declaration of Town Hill Commons Condominiums referred to above, as the same may be hereafter amended of record.

SUBJECT, ALSO, TO the following:

1. Any and all provisions of any ordinance, municipal rule or regulation or public or private law, including, without limitation, planning and zoning regulations.

2. Taxes due to the City of Danbury, including any reassessment or reallocation of the Common Interest Community, which become due and payable after the date of the delivery of the deed.

3. The terms and conditions of a certain Contract between TOWN HALL COMMONS ASSOCIATES, LLC and the City of Danbury, dated _____, 2005, and recorded in Volume _____ at Page _____ of _____ the Danbury Land Records, which Contract requires that the premises be sold or rented at, or below, prices which will preserve the premises as affordable housing as defined in Connecticut General Statute Sec. 8-39a, as the same shall be amended from time to time, for a period of thirty (30) years after the issuance of a Certificate of Zoning Compliance for the premises.

EXHIBIT C
AFFIDAVIT OF PURCHASER/LESSEE

TOWN HILL COMMONS CONDOMINIUMS

**CONFIDENTIAL – NOT SUBJECT TO DISCLOSURE UNDER
THE CONNECTICUT FREEDOM OF INFORMATION ACT**

DATE : _____

TO : Zoning Enforcement Officer, City of Danbury

FROM: Unit # _____, Town Hill Commons Condominiums,
Danbury, Connecticut, property

Proposed Closing date (if sale) / Commencement of Lease (if rental): _____
(Must be at least 15 days after submission of this Affidavit)

I/We hereby attest to the following:

I/We intend to purchase or lease an “Affordable Housing Unit” as defined in Connecticut General Statutes §8-39a.

I/We understand that there are certain restrictions govern the sale, lease and re-sale of such Affordable Housing Units, including income limits.

1. The total purchase price for the above property is \$ _____.
2. The monthly rent for the property is \$ _____.
3. The amount of down payment is \$ _____.
4. The area median income of the City of Danbury is \$ _____.
(Verification Attached)
5. I/We hereby certify to the City of Danbury that our income OF \$ _____ is equal to or less than the area median income for the City of Danbury (as determined by the U.S. Department of Housing and Urban Development). “Income” shall mean “adjusted gross income, as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 for individual Federal annual income tax purposes.” I/we agree to provide verification of income by providing complete signed copies of the form 1040 federal income return filed for the tax year preceding the date of this affidavit to the City of Danbury Department of Health & Housing. I/we agree to file copies of additional 1040 returns and back up documentation if requested by the City of Danbury Department of Health & Housing.

6. The following is a listing of the anticipated annual housing expenses for the property:

Mortgage or rent payments	\$
Real Estate taxes	\$
Casualty insurance	\$
Sewer charges	\$
Water charges	\$
Community Association charges	\$
Electricity (estimate)*	\$
Heat (estimate)*	\$
Total: (must not exceed 30% of the amount on line #3 above)	\$ _____

* To be based on HUD figures available from the City of Danbury Department of Health & Housing.

7. I/We intend to occupy the Affordable Housing Unit as my/our principal residence.
8. I/We have applied for a mortgage loan from the following lender:

Name

Street address

City State Zip Code

9. I/We hereby authorize the Zoning Enforcement Officer to furnish a copy of this Affidavit to my/our proposed lender.
10. Attached to this Affidavit are copies of the following documents:
- (a) Contract between the seller and purchaser;
 - (b) Proposed Deed;
 - (c) Proposed Lease.
 - (d) Copies of signed 1040 return(s) filed for the preceding tax year.

I/We make this Affidavit under penalty of perjury.

Purchaser / Lessee

Purchaser / Lessee

Subscribed and sworn to, before me, this _____ day of _____, 2005.

**Commissioner of the Superior Court
Notary Public
My Commission Expires _____**